

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DOUGLAS DYNAMICS, LLC,

Plaintiff,

v.

MEYER PRODUCTS LLC,

Defendant.

ORDER

14-cv-886-jdp

Plaintiff Douglas Dynamics, LLC accuses defendant Meyer Products LLC of infringing its patent, U.S. Patent No. 6,928,757, for a snowplow mounting assembly. After Douglas initiated this lawsuit, Meyer petitioned the Patent Trial and Appeals Board (PTAB) for *inter partes* review of the '757 patent on May 21, 2015. Meyer asked the court to stay the case the next week. Dkt. 12. The court declined to do so, but invited the parties to renew the motion in the event that PTAB granted the petition. Dkt. 23. PTAB granted the petition on December 9, 2015, and has initiated review. Its final written decision is statutorily required to be completed with 12 months, or at most 18 months if good cause is shown for an extension. 35 U.S.C. § 316(a)(11). The parties have jointly moved to stay the case pending PTAB's final written decision, Dkt. 47, and the court will grant the motion.

The factors favor staying the case. *See VirtualAgility, Inc. v. Salesforce.com*, 759 F.3d 1307, 1309 (Fed. Cir. 2014) (setting out factors for considering a stay under the AIA provisions for covered business method patents); *NFC Tech. LLC v. HTC Am., Inc.*, No. 13-cv-1058, 2015 WL 1069111, at *2 (E.D. Tex. Mar. 11, 2015) (applying the *VirtualAgility* factors to *inter partes* review). First, the parties have moved jointly; thus, there is no prejudice to either party in granting the stay. Second, PTAB's decision on the validity of the only

patent in this case will likely simplify the issues and streamline the trial. Third, although the case has progressed somewhat and the trial date has been scheduled, there is still much to be done. Expert disclosures and dispositive motions are not yet due, and discovery is not scheduled to close until July. Accordingly, a stay would spare everyone a significant amount of work and expense until PTAB reaches its decision.

This case will be stayed until PTAB issues its final written decision. At that point, the parties should promptly inform the court of PTAB's decision and present the best approach to resolve whatever issues remain.

ORDER

IT IS ORDERED that the joint motion for stay, Dkt. 47, is GRANTED.

Entered December 23, 2015.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge